

On Oct. 5, 1949,⁽⁵⁾ Members were asked to rise for a moment of silent prayer.

The House met at 10 o'clock a.m.

THE SPEAKER [Sam Rayburn, of Texas]: Will the membership rise for a moment in silent prayer?

Parliamentarian's Note: Although the Chaplain of the House had designated an acting Chaplain to serve during his absence, the acting Chaplain was unaware that the House had agreed to convene at 10 o'clock a.m. and arrived too late to open the House with a prayer.

§ 21.9 Visiting Chaplains offer prayers when the Chaplain of the House is absent.

On June 9, 1948,⁽⁶⁾ the prayer was offered by a woman minister,⁽⁷⁾ for the first time in the history of the Congress.

On June 21, 1965,⁽⁸⁾ the prayer was offered in the House by Rev. Harold S. Horan, son of Walter F. Horan, a former Member (1943–55) from Washington.

5. 95 CONG. REC. 13897, 81st Cong. 1st Sess.

6. 94 CONG. REC. 7597, 7598, 80th Cong. 2d Sess.

7. Rev. Annalee Stewart, of Chicago and Boston.

8. 111 CONG. REC. 14097, 89th Cong. 1st Sess.

§ 22. Vacancies; Selection of Successors

The unexpected death of the Sergeant at Arms, William F. Russell, on July 8, 1953,⁽⁹⁾ dramatically underscored the need for a mechanism to select acting officers. On that date,⁽¹⁰⁾ the House authorized Lyle O. Snader, Clerk of the House, to serve concurrently as Clerk and Sergeant at Arms with the proviso that he would receive no additional compensation for performing the duties of the Sergeant at Arms.⁽¹¹⁾ Later, Congress passed a statute (2 USCA §75a–1) authorizing the Speaker to appoint a person to act as Clerk, Sergeant at Arms, Doorkeeper, Postmaster, or Chaplain whenever a vacancy occurs.⁽¹²⁾

Appointments by Speaker

§ 22.1 The Speaker is authorized by statute to appoint temporary officers to fill vacancies.

On July 28, 1953,⁽¹³⁾ Mr. Charles A. Halleck, of Indiana, of-

9. See 99 CONG. REC. 8263, 83d Cong. 1st Sess. for announcement of the death of the Sergeant at Arms.

10. 99 CONG. REC. 8242, 83d Cong. 1st Sess.

11. See § 16.3, *supra*.

12. See § 22.1, *infra*, for text of resolution.

13. 99 CONG. REC. 10128, 83d Cong. 1st Sess.

ferred and the House passed the following bill (H.R. 6571) which was codified as 2 USC §75a-1 (approved Aug. 5, 1953):⁽¹⁴⁾

(a) In case of a vacancy, from whatever cause, in the office of Clerk, Sergeant at Arms, Doorkeeper, Postmaster, or Chaplain, of the House of Representatives, or in the case of the incapacity or inability of the incumbent of any such office to perform the duties thereof, the Speaker of the House of Representatives may appoint a person to act as, and to exercise temporarily the duties of, Clerk, Sergeant at Arms, Doorkeeper, Postmaster, or Chaplain, as the case may be, until a person is chosen by the House of Representatives and duly qualifies as Clerk, Sergeant at Arms, Doorkeeper, Postmaster, or Chaplain, as the case may be or until the termination of the incapacity or inability of the incumbent.

(b) Any person appointed pursuant to this section shall exercise all the duties, shall have all the powers, and shall be subject to all the requirements and limitations applicable with respect to one chosen by the House of Representatives to fill the office involved; but nothing in this section shall be held to amend, repeal, or otherwise affect section 7 of the Legislative Branch Appropriation Act, 1943 (2 U.S.C. sec. 75a).

(c) Any person appointed pursuant to this section shall be paid the compensation he would receive if he were chosen by the House of Representatives to fill the office involved, unless

such person is concurrently serving in any office or position the compensation for which is paid from the funds of the United States, in which case he shall receive no compensation for services rendered pursuant to his appointment under this section, and his compensation for performing the duties of such office other than the one to which he is appointed pursuant to this section shall be in full discharge for all services he performs for the United States while serving in such dual capacity.

§ 22.2 The Speaker, pursuant to 2 USCA §75a-1(a), appointed a Sergeant at Arms following resignation of the incumbent who concurrently held the office of Clerk.

On Jan. 6, 1954,⁽¹⁵⁾ the Speaker, Joseph W. Martin, Jr., of Massachusetts, laid before the House the following communication from the Clerk:

MY DEAR MR. SPEAKER: I submit herewith, effective at the close of business today, my resignation as Sergeant at Arms, House of Representatives, which additional duty I assumed pursuant to House Resolution 323, dated July 8, 1953, 83d Congress.

Respectfully yours,

LYLE O. SNADER,

*Clerk of the
House of Representatives.*

At the same time the Speaker made the following announcement:

The Chair announces that, pursuant to the provisions of section

14. See also 99 CONG. REC. 10073, 83d Cong. 1st Sess., July 8, 1958, for passage in Senate.

15. 100 CONG. REC. 8, 83d Cong. 2d Sess.

208(a) of the Legislative Reorganization Act of 1946 [2 USCA 75a-1], he did on September 15, 1953, appoint William R. Bonsell, of the State of Pennsylvania, to act temporarily as Sergeant at Arms until the House chooses a person for that office.⁽¹⁶⁾

§ 22.3 The person who had resigned as permanent Sergeant at Arms was appointed to fill the office on a temporary basis until a successor could be chosen.

On June 30, 1972,⁽¹⁷⁾ the Speaker, Carl Albert, of Oklahoma, laid before the House a letter of resignation from the Sergeant at Arms, Zeake W. Johnson, Jr., effective June 30, 1972, and, pursuant to 2 USC §75a-1 (a) appointed him to act as and to exercise temporarily the duties of that office.

Parliamentarian's Note: Mr. Johnson resigned as permanent Sergeant at Arms on this date to qualify for certain retirement benefits available to persons who left government service on or before the last day of the 1972 fiscal year. He agreed to serve as acting Sergeant at Arms until the Democratic Caucus nominated a can-

didate for the office of Sergeant at Arms.

Mr. Johnson served as temporary Sergeant at Arms until Oct. 1, 1972. On Sept. 25, 1972,⁽¹⁸⁾ the Speaker, laid before the House the following communication from the acting Sergeant at Arms:

DEAR MR. SPEAKER: On June 30, 1972, pursuant to the provisions of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 75-1(a)), you appointed me to act and to exercise temporarily the duties of Sergeant at Arms of the House of Representatives effective July 1, 1972.

Since the Democratic Caucus has nominated a candidate for the Office of Sergeant at Arms, I hereby tender my resignation effective midnight September 30, 1972.

In my leave-taking, I want to thank you, Members of the House, and to say that words cannot adequately express my feelings of gratitude and fulfillment for the privilege that has been mine to serve the House of Representatives as Sergeant at Arms.

Sincerely,

ZEAKE W. JOHNSON, JR.,
Sergeant at Arms.

§ 22.4 The Speaker appointed an acting Chaplain following the death of the incumbent.

On Mar. 14, 1966,⁽¹⁹⁾ the Speaker, John W. McCormack, of Massachusetts, pursuant to 2 USC §75a-1(a), appointed Rev. Edward Gardiner Latch, D.D., L.H.D., to

16. 100 CONG. REC. 8, 83d Cong. 2d Sess. See §16.4, *supra*, for the election of Mr. Bonsell as permanent Sergeant at Arms.

17. 118 CONG. REC. 23665, 92d Cong. 2d Sess.

18. 118 CONG. REC. 31999, 32000, 92d Cong. 2d Sess.

19. Cong. Rec. 5712, 89th Cong. 2d Sess.

act as and exercise temporarily the duties of the Chaplain of the House of Representatives following the death of the Chaplain

of the House, Rev. Bernard Braskamp.

Rev. Latch served as acting Chaplain until the end of the 89th Congress.⁽²⁰⁾

D. AS PARTY DEFENDANT OR WITNESS

§ 23. In General; Immunities

This division focuses on the liability to suit or to judicial process of House officials or employees for acts committed by them in the performance of their duties for the House. Immunity arising under the Speech or Debate Clause of the U.S. Constitution (art. I, §6) is discussed. Court opinions dealing with aides of individual legis-

lators⁽¹⁾ and committee employees⁽²⁾ are also taken up here.⁽³⁾

In the exercise of official duties, an officer of the House may become involved in litigation by receiving a summons to appear as a party defendant,⁽⁴⁾ in which case he informs the Speaker,⁽⁵⁾ and may request legal representation by the United States Attorney for the district in which the action is brought.⁽⁶⁾ Or he may receive a

20. See §16.9, *supra*, for the election of Rev. Latch as Chaplain.

1. See *Gravel v United States*, 408 U.S. 606 (1972), for example, which is discussed at §23.13, *infra*. See also Ch. 7, *infra*, for a discussion of litigation involving Members generally.
2. *Dombrowski v Eastland*, 387 U.S. 82 (1967), *Stamler v Willis*, 415 F2d 1365 (7th Cir. 1969); cert. den. 399 U.S. 929 (1970), and *Doe v McMillan*, 412 U.S. 306 (1973), which are discussed at §§23.10, *infra*, 23.12, *infra*, and 23.14, *infra*, respectively.
3. See Ch. 11, which includes a discussion of the privilege of the House as related to subpoenas served on Members or on House officers or employees.

4. See the reports of the Joint Committee on Congressional Operations Identifying Court Proceedings and Actions of Vital Interest to the Congress, for the record of legal actions involving House officers, beginning with the first cumulative report dated Oct. 20, 1971.

5. See §§23.1 and 23.2 *infra*, for precedents relating to receiving a summons and notifying the Speaker.

6. See USC §118.

See §§93.3, *infra*, and 23.5, *infra*, for examples of requests for representation from the Clerk and the Sergeant at Arms, respectively.